

REMARKS

Claims 1 to 13 are pending in this case. Claims 2, 5, 9, and 12 have been indicated as allowable. Claims 8-13 have been rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Claims 1, 3, 4 and 6 have been rejected under §103(a) over Hagiwara et al. (U.S. 6,944,428 B2) in view of Wasser (U.S. 2004/0038706 A1). By this Amendment, applicant amended claim 8. Applicant respectfully traverses the above rejections and requests reconsideration of the subject patent application in view of the following remarks.

In paragraph 5 of the Office Action, claims 2, 5, 9, and 12 have been objected to, but are indicated as allowable if rewritten in independent form including all limitations of the base and any intervening claims. Applicant thanks the Examiner for kindly indicating the allowability of claims 2, 5, 9, and 12, but defers rewriting these claims until final resolution of the remaining claims.

In paragraph 1 of the Office Action, claims 8-13 have been rejected under § 101 for containing non-statutory subject matter. This rejection is respectfully traversed.

The "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (hereinafter "Guidelines") set forth that:

a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. (Emphasis added.)

In the subject application, independent claim 8 recites just "[a] computer readable medium storing a computer program for controlling a wireless telephone device." Accordingly, the subject matter claimed in independent claim 8 is "a computer

element" based on the above quoted section from the Guidelines and is thus statutory. Therefore, the subject rejection is moot.

In paragraph 4 of the Office Action, claims 1, 3, 4 and 6 have been rejected under §103(a) over Hagiwara in view of Wasser. This rejection is respectfully traversed.

The subject application claims the priority of Japanese Patent Application No. 2001-10208 filed January 18, 2001. The Hagiwara reference has an effective date of August 6, 2001, which is later the Japanese priority date of the subject patent application. In support of the above position, applicant submits herewith a verified English-language translation of the above-mentioned Japanese priority application. Accordingly, the subject rejection is moot.

Applicant has shown that, in addition to the allowable claims 2, 5, 9, and 12, claims 1, 3, 4, 6-8, 10, 11 and 13 are also allowable and hereby respectfully requests that the rejection of claims 1, 3, 4, 6-8, 10, 11 and 13 be withdrawn. Each of the presently pending claims in this application is believed to be in immediate condition for allowance and such action is earnestly solicited.

Respectfully submitted,

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By Hua Gao (40,414)
Hua Gao Reg. No. 40,414

DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, New York 10036-2714
(212) 277-6500
Attorneys for Applicant

Enclosure